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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,824	04/18/2001	Glen Davis	DGL-10002/15	9644

7590 07/23/2002

DOUGLAS J. McEVOY
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
280 N. Old Woodward, Suite 400
Birmingham, MI 48009

EXAMINER

WONG, STEVEN B

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 07/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/837,824

Applicant(s)

DAVIS, GLEN

Examiner

Steven Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

2. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Hand.

Regarding claim 1, Hand discloses a set of water skipping articles comprising a three dimensional body (45) defined by upper and lower elliptically extending faces (41, 42) and a hollow interior cavity (57).

Regarding claim 4, the interior cavity is formed by elliptical surfaces (49, 55).

Claim Rejections - 35 USC § 103

3. Claims 3, 5-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hand. It would have been obvious to one of ordinary skill in the art to form the width to form the skipping article of Hand with the instantly claimed dimensions as the applicant has not shown the criticality by a new and unexpected result and it appears that the dimensions shown by Hand would accomplish similar purposes.

4. Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hand in view of Glovak et al. (4,151,997). Glovak et al. reveal a water skipping article formed from sand and a water soluble organic binder (column 1, lines 33-43). It would have been obvious to one of

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ordinary skill in the art to form the article of Hand from the materials of Glovak et al. in order to provide an environmentally friendly water skipping article.

Response to Arguments

5. Applicant's arguments filed May 24, 2002 have been fully considered but they are not persuasive. Regarding the applicant's argument that the surfaces of Hand are not elliptical in shape, it appears that applicant is using his own definition of the terminology. Attention is directed to the attached definition which states that an ellipse is defined as oval in shape. Clearly, Figures 2 and 5 of Hand show the water skipping article having surfaces with an oval cross section. Although Hand does not particularly state that the surfaces are elliptical, it does not preclude one of ordinary skill in the art from discerning from the Figures that the water skipping article is elliptical in cross section.

Regarding the enhanced performance characteristics obtained by the water skipping device of the present invention, the applicant has been invited to provide evidence of a new and unexpected result obtained from the particularly claimed dimensions.

Regarding the applicant's statement that Hand provides a pointed outer edge and not the claimed smooth edged outer perimeter, the applicant appears to be arguing a difference in degree which is not presented in the claims. While the rounded edge (45) of Hand might not be to the same degree as that of applicant's, the instant claims do not particularly define this degree and thus, the water skipping article anticipates the claimed limitation.

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Regarding the limitation for the article to be formed from a biodegradable material, attention is directed to the rejections of claims 2 and 9 wherein the reference to Glovak et al. teaches a water skipping article formed from a biodegradable material.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is (703) 308-3135.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1148.

Official responses, subject to the provisions of 37 C.F.R. 1.6(d), can be faxed to (703) 305-3579.

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Unofficial faxes which are meant for discussion purposes only should be sent to (703) 308-7768. It is strongly suggested that the examiner be contacted directly before sending any unofficial fax.

~~Steven Wong~~
Primary Examiner
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SBW
July 18, 2002

(*Alces alces*) of Europe and Asia resembling but not so large as the moose of No. America. b : a No. American deer (*Cervus canadensis*) similar to the red deer of Europe and related forms — called also *caribou*. c : any of various large Asian deer. 2 : soft tanned rugged leather. (F. equivalent and Protective Order of Elks) : a member of the

cap [Benevolent and Protective Order of Elks] *n* (member of) a benevolent and fraternal order
elk-hound ['elk-, haund-, /'OE-, k-and-] *n* (1835): NORWEGIAN ELKHOUND
elk\ 'el\ \n [ME *eln*, fr. OE; akin to OHG *elina* elf, L *aluna* albula]
Gk *olenē* elbow, Skt *āñ* 'to clasp, thigh'] (bef. 12c) 1: a forearm
gish unit of length (as fathom) equal to 45 inches 2: any of
units of length similar in use to the English ell
ell *n* [alter. of *el*] (1713) 1: an extension at right angles to the
of a building 2: an elbow in a pipe or conduit
el-lap-ic *a*-laj-i-k-, e-/N [F *ellagique*, fr. *ellag.* anagram of
(1810): a crystalline phenolic compound C₁₆H₁₀O₅ with two
groupings that is obtained esp. from oak galls and some tannins
originally as a hemostatic

used medicinally as a hemostatic
el·lips, e-*l* n [Gk *ellipseis*] (1753) 1 a
: OVAL b: a closed plane curve generated by
a point moving in such a way that the sums of
its distances from two fixed points is a con-
stant: a plane section of a right circular cone
that is a closed curve 2: ELLIPSIS

that is, a closed curve, $e \sim n$, pl. ellipses $\langle \cdot, \cdot \rangle_{\text{sez}} \langle L, \cdot \rangle$, ellipsis $\langle \cdot, \cdot \rangle_{\text{lip-sses}}, e \sim n$, pl. ellipses $\langle \cdot, \cdot \rangle_{\text{sez}} \langle L, \cdot \rangle$, fr. Gk *ellipseis* *ellipsis*, ellipsis, fr. *ellipsein* to leave out, fall short, fr. *en in* + *leipoin* to leave — more at IN, LOAN. (1540) 1 a: the omission of one or more words that are obviously understood but that must be supplied to make a construction grammatically complete ("the man that he sees") may be changed by ~ to "the man he sees" b: a leap or sudden passage without logical connectives from one topic to another 2: marks or a mark (as ... or *** or \Rightarrow) indicating a pause

el-lip-soid \i-'lip-'soid, e-\ *n* (1721): a surface all plane sections are ellipses or circles — **ellip-soid** or **el-lip-soi-dal** \i-'lip-'soid-
adj

el-lip-tic \i-'lip-tik, e- or el-'lip-ti-cal \i-'tik-al/ *adj* [*Gk ellipsein*] transitive, marked by ellipsis, fr. *ellipsein* (1656) 1: of, relating to, or shaped like an ellipse 2 a: of, relating to, or marked by elliptical construction b (1): of, relating to, or marked by extreme concision (as in speech or writing) (2): of or relating to deliberate obscurity (as in literary or conversational style)—*n* (*el-lip-ti-cal-li-y* \i-'tik-(ə)-lē-/ *n*) ellipticality *f*. deviation from a straight line

el-m 'elm] *n* [ME, fr. OE: akin to OHG *elme* elm, L *ulmus*]
1 : any of a genus (*Ulmus* of the family Ulmaceae, the elm) comprising large graceful trees with alternate stipulate leaves
2 : the wood of an elm

apetalous flowers 2; the wood of an elm
elm bark beetle *n* (1909): either of two beetles that are vectors of the
fungus causing Dutch elm disease: a: a beetle (*Hylurgopinus*) native to
eastern No. America b: a European beetle (*Scolytus*) that is established in eastern No. America

World chrysomelid beetle (*Pyrrhalta luteola*) that is a leaf-eater in eastern No. America as a larva and as an adult

ring flow of unusually warm surface water along the western coast of South America that is accompanied by abnormally high rainfall in the arid areas and that prevents upwelling of nutrient-rich cold water, leading to a decline in the regional fish population.

el-o-cu-tion \el-ə-kyū-shən\ *n* [ME *elocucioun*, fr. L *elocutio*, fr. *elocutus*, pp. of *elouqui*] (15c) 1: the art of effective public speaking 2: a way of speaking esp. in public — **el-o-cu-tion-ary** \-sh-

elo-dea \i-'lōd-ē-ə\ n [NL, fr. Gk *helōdēs* marshy, fr. *helos* mar-
Skt *saras* pond] (ca. 1868): any of a small American genus
submerged aquatic monocotyledonous herbs

eloign \i-'lōin\ *vt* [ME *eloyner*, fr. MF *esloigner*, fr. OF, fr. *ex-* + *loing* (adv.) far, fr. L *longe*, fr. *longus* long] (1500)
: to take (oneself) far away 2 *archaic* : to remove to a distance

elōn-gate \i-'lōn-gāt\ *vb* -**gat-ed**; -**gat-ing** [*L. elongatus*, pp. of *elongare*, to withdraw, fr. *L. e-* + *longus*] *vt* (1578): to extend the length of; to grow in length

elongate or elon-gat-ed *adj* (1828) 1: stretched out 2: shaped or made to be long
elon-ga-tion \ (ē-lŏn-'gā-shən) *n* (14c) 1 a: the angular distance between two celestial bodies from another around which it revolves or from which it is viewed b: the daily extreme east or west position of the sun

lar point in the sky **b**: the daily extreme east or west
with reference to the north celestial pole **2 a**: the s
elongated or lengthened; *also*: the process of growing or
length **b**: something that is elongated

elope \i-'löp\ *vi* **eloped**; **elop-ing** [AF *aloper*] (1628) 1 **a** : to run away secretly from one's husband with a lover **b** : to run away secretly with intention of getting married usu. without parental consent
elopement \-'löp-mənt\ *n* — **elop-er** *n*

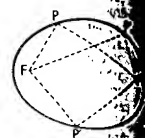
eloquence 'el-ə-kwən(t)s *n* (14C) 1: discourse marked
persuasiveness; also: the art or power of using such disc
quality of forceful or persuasive expressiveness

eloquent \-kwənt\ *adj* [ME, fr. MF, fr. L *eloquent-*, *eloqui* to speak out, fr. *e-* + *loqui* to speak] (14c) 1: manifestly expressive or revealing (an ~ preacher) 2: vividly full and fluent expression (an ~ monument) — **eloquently** *adv*

else *\el(t)s* *adv* [ME *elles*, fr. OE; akin to L. *alius* other; two, Gk *allos* other] (bef. 12c) 1 **a**: in a different manner or at a different time (how ~ could he have acted) (here an additional manner or place or at an additional time)

2: in an additional manner or place or at an additional time (the gold is gold found) **2:** if not: OTHERWISE (leave or ~ you) used absolutely to express a threat (do what I tell you or else) **else** *adj* (bef. 12c): **OTHER:** a: being different in identity or quality (what ~ did he do?) b: being different in identity or quality (what ~ did he do?)

else *adv* (bef. 12c): *o*: being in addition (what ~ did n
been somebody ~) *b*: being in addition (what ~ did n
else-where \-, (h)we(a)ɹ, -, (h)wa(a)ɹ/ *adv* [ME *elleswhe*
hwær] (bef. 12c): in or to another place (took his b



ellipse 1b: F, F'
 P, P', P'' any point
 the curve; $FP + F'P$
 $FP' + P'F' = FP + F'P$

[illegible]